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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,962	07/14/2003	Alon Atsmon	20257/312	6417

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EXAMINER

DAO, MINH D

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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06/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/618,962	ATSMON ET AL.	
	Examiner	Art Unit	
	MINH D. DAO	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-42 and 48-54 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 24-42 and 48-54 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 24,31,32,41, and 42 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,607,136. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of claims 24,31,32,41, and 42 of the present application are broad enough to be encompassed by the limitations of claims 1-3 of US Patent No. 6,607,136 and as such it would have been obvious to one of ordinary skill in the art to implement the claims of the present application using the claims of US Patent No. 6,607,136 in order to implement such method and system as claimed in the present application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 24-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (US 5,905,246).

Regarding claim 24, Fajkowski teaches a portable device, comprising: a device body that has a thickness less than 0.8 mm and a switch (see figs. 2-5; col. 13, line 37 to col. 14, line 54. In this case, the Transfer key 45 reads on the switch of the present invention. In addition, coupon card of Fajkowski could obviously have, by design choice, a thickness less than 0.8 mm); memory for holding device information; a processor for processing instructions and computing data (see fig. 5, col. 3, line 50 to col. 4, line 16); and reception electronics for receiving wireless signals (see fig. 5, receiver 15).

Regarding claim 25, Fajkowski teaches the reception electronics includes decoder electronics for extracting broadcast information from the wireless signals (see col. 9, lines 3-39).

Regarding claim 26, Fajkowski teaches that the processor stores broadcast information in memory (see col. 3, line 50 to col. 4, line 16).

Regarding claim 27, Fajkowski teaches the wireless signals are received from consumer electronics (see col. 13, line 37 to col. 14, line 54).

Regarding claim 28, Fajkowski teaches a display on the device body for displaying alphanumeric characters (see fig. 2, item 3).

Regarding claim 29, Fajkowski teaches the display is a liquid crystal display (LCD) (see col. 8, lines 1-16).

Regarding claim 30, Fajkowski teaches the processor is capable of displaying the broadcast information on the display (see fig. 4b).

Regarding claims 31,32, Fajkowski teaches the portable device of claim 1, further comprising: transmission electronics coupled to the switch that emit a wireless signal when the switch is activated (see figs. 2-5; col. 13, line 37 to col. 14, line 54).

Regarding claim 33, since Fajkowski teaches digital communication, it is obvious that the transmission electronics must encode the broadcast information in the wireless signal before emitting.

Regarding claim 34, Fajkowski teaches the broadcast information is a redeemable coupon (see fig. 5, col. 3, line 50 to col. 4, line 16).

3. Claims 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (US 5,905,246) in view of Kim (US 2006/0229114).

Regarding claim 35, Fajkowski, as mentioned above, teaches the limitations of claim 24 but does not disclose that the wireless signal is an acoustic signal. Kim, in an analogous art, teaches wirelessly downloading audio files from one device to another so that the other device can play the audio files (see claim 58). Therefore, it would have been obvious to one of ordinary skill in the art to introduce the above teaching of Kim to Fajkowski for the purpose of providing user with convenient way of obtaining audio files from a close distance.

Regarding claim 36, the combination of Fajkowski and Kim obviously teaches the acoustic signal is an ultrasound acoustic signal (see Kim, claim 58).

Regarding claim 37, the combination of Fajkowski and Kim teaches the wireless signal is radio frequency (RF) signal (see Kim, claim 58).

Regarding claim 38, the combination of Fajkowski and Kim teaches the wireless signal is a magnetic signal (see Kim, claim 58).

Regarding claim 39, the combination of Fajkowski and Kim teaches the reception electronics includes recording electronics for recording the acoustic signals received by the receiver electronics (see Kim, claim 58).

Regarding claim 40, the combination of Fajkowski and Kim teaches transmission electronics coupled to the switch that plays the recorded acoustic signals when the switch is activated (see Kim, claim 58).

Regarding claim 41, the rejection of claim is herein incorporated. In addition, Kim also teaches downloading, recording and playing of audio files.

Regarding claim 42, the claim includes the limitations as that of claim 40, and therefore is interpreted and rejected for the same reason set forth in the rejection of claim 40.

Art Unit: 2618

4. Claims 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al. (US 7,058,376).

Regarding claim 48, Logan teaches a method of searching for content on a server, comprising steps: receiving an audio sample; accessing a database of a plurality of audio files; and comparing the audio sample with a selected plurality of audio files to find a match (see col. 18, lines 40-53). In since the user can connect to a server, it is obvious that this server can be an Internet server.

Regarding claims 49,50, Logan also obviously teaches that when the server delivers the audio file that matched the request audio sample, the delivered audio file is well known to attach a URL.

Regarding claim 51, Logan teaches method of searching for content on the Internet, comprising steps: sending a request to conduct a search based on a recorded audio sample; and receiving a response based on the request (see col. 18, lines 40-53). In addition, the request audio sample sent by mobile must obviously be recorded before being sent to the server.

Regarding claim 52, the rejection of claim 51 is herein incorporated.

Regarding claims 53,54, the rejection of claim 49 is herein incorporated.

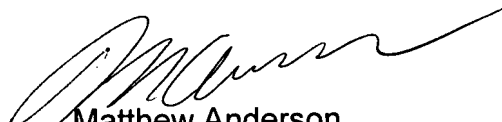
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is 571-272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW ANDERSON can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Minh Dao *MD*
AU 2618
May 25, 2007


Matthew Anderson
Supervisor AU 2618